

20-07

**ORDINANCE OF THE BOROUGH OF MERCHANTVILLE,
COUNTY OF CAMDEN AND STATE OF NEW JERSEY
AUTHORIZING INTERIM ZONING IN CHAPTER 94, ZONING,
PURSUANT TO N.J.S.A. 40:55D-90(b), TO ALLOW FOR
ISSUANCE OF ZONING PERMITS, EFFECTIVE UNTIL THE
REPEAL OR RESCINDING OF THE GOVERNOR'S
EXECUTIVE ORDER #150, TO PERMIT TEMPORARY
OUTDOOR RESTAURANT SEATING AND RETAIL OUTDOOR
DISPLAY SALES AREAS AT EXISTING LAWFUL BUSINESSES,
SUBJECT TO BULK ZONING AND CONSTRUCTION CODE
REQUIREMENTS AND OTHER OUTSIDE AGENCY APPROVALS**

WHEREAS, the Mayor and Borough Council of the Borough of Merchantville ("Mayor and Council") is authorized to adopt interim zoning, pursuant to N.J.S.A. 40:55D-90(b), when matters of an imminent public health and safety issue are implicated as confirmed by a qualified health professional; and

WHEREAS, the Mayor and Council seek to establish a balance between the competing and conflicting public interests in promoting the reestablishment of public commerce in the Borough of Merchantville, while maintaining safe social distancing to minimize the threat and spread of the Coronavirus pandemic; and

WHEREAS, the Mayor and Council have determined that interim zoning to permit temporary outdoor restaurant seating and outdoor retail sales displays will promote these compelling public interest goals in a complementary fashion, provided that the implementation of same will occur on a temporary basis, and does not contravene any other public health and safety concerns as set forth in the Borough's bulk zoning requirements, Construction Code requirements and requirements of any other outside County or State agencies; and

WHEREAS, the Mayor and Council desire to implement such measure as expeditiously as possible to minimize red tape and bureaucratic delay, but subject to a lawful process that will protect the interests of the residents of Borough of Merchantville and its

taxpayers; and

WHEREAS, the Mayor and Council acknowledge the existence of the Governor's Executive Orders in respect of the restricted operations of retail businesses and restaurants at this time for take-out business only and, thus, such time period for the implementation of any temporary Zoning Permit issued hereunder, shall commence upon the repeal, expiration, non-renewal of the Governor's Executive Order restricting sales to take-out only and/or other Executive Order superseding the requirements or otherwise allowing for the interim zoning as set forth above, and shall cease upon the repeal or rescinding of the Governor's Executive Order #150; and

WHEREAS, a public health and safety emergency from the Coronavirus pandemic has been deemed to exist authorizing the adoption of interim zoning ordinance, because it will further promote social distancing.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Merchantville, County of Camden and State of New Jersey that:

Section 1. Interim zoning, within the applicable Sections of Chapter 94, Zoning, in the Code of the Borough of Merchantville, is hereby adopted for a period of time from the effective date hereof or such other date as deemed by Executive Order by the Governor, whichever is earlier and retroactive if necessary, to permit the establishment of temporary outdoor seating at lawfully existing restaurants and outdoor retail sales displays at existing lawful retail businesses, and shall cease upon the repeal or rescinding of the Governor's Executive Order #150.

Section 2. Upon submission of a written application and plot plan detailing the proposed temporary use activity described in Section 1., above, the Zoning Officer of the Borough of Merchantville is authorized to issue a temporary zoning permit, provided that such issuance is authorized by existing bulk zoning requirements, the Borough's Construction Code official's determination that it meets applicable Code requirements, and further that it complies with the legal requirements of any county or state agency with jurisdiction over the proposed use and retail sales activity. Since the proposed use is temporary in nature, no application for site plan approval shall be required.

Section 3. Any temporary zoning permit issued hereunder shall lawfully take effect upon

the repeal, expiration, non-renewal of the Governor's Executive Order restricting operations of retail businesses and restaurants for take-out business only, or such other Executive Order superseding prior Executive Orders. Such ordinance shall be construed in a manner to fully comport with any future executive orders issued by the Governor.

Section 4. All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

Section 5. The provisions of this Ordinance shall supersede the terms of any previously site plan approval, to the extent there is any conflict therewith.

Section 6. This Ordinance shall take effect as set forth above and upon final passage and publication in accordance with law.

THE BOROUGH OF MERCHANTVILLE

BY: _____
EDWARD F. BRENNAN, MAYOR

ATTEST:

DENISE BROUSE, BOROUGH CLERK

The foregoing ordinance was introduced by Mayor and Council at the regular meeting held on June 8, 2020. This Ordinance will be considered for adoption on final reading and public hearing to be held on June 22, 2020 at 7:30 p.m. (Zoom Platform information)

The purpose of this Ordinance is to permit interim zoning to permit temporary outdoor restaurant seating and outdoor retail sales for a period consistent with the Executive Order #150 by the Governor, at lawfully existing restaurants and outdoor retail sales displays at existing lawful retail businesses. A copy of this Ordinance is available at no charge to the general public between the hours of 8:30 AM to 4:30 PM, Monday through Friday (Legal Holidays excluded), at the Office of the Borough Clerk, Merchantville Borough Hall, 1 West Maple Avenue, Merchantville, New Jersey.